UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,105	03/31/2000	Jean-Claude Sarfati	11345/011001	1758

22511	7590	05/13/2004

OSHA & MAY L.L.P.
1221 MCKINNEY STREET
HOUSTON, TX 77010

EXAMINER
LEE, CHRISTOPHER E

ART UNIT	PAPER NUMBER
2112	

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/540,105	SARFATI, JEAN-CLAUDE
	Examiner	Art Unit	
	Christopher E. Lee	2112	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _13 April 2004_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-4,6,9,13,20-23,25-29,31,34-36,39 and 43-55_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-4,6,9,13,20-23,25-29,31,34-36,39 and 43-55_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Receipt Acknowledgement

1.   Receipt is acknowledged of the request filed on 13th of April 2004 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on the Application No. 09/540,105, which the request is

5   acceptable and an RCE has been established. Claims 1-3, 6, 20, 21, 44 and 51 have been amended; no claim has been canceled; and claims 54 and 55 have been newly added since the RCE Final Office Action was mailed on 13th of November 2003. Currently, claims 1-4, 6, 9, 13, 20-23, 25-29, 31, 34-36, 39 and 43-55 are pending in this application.

2.   The Amendment document filed on 13th of April 2004 (hereinafter the Response) is considered

10   non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (*See 68 Fed. Reg. 38611*, Jun. 30, 2003) because the claims 37, 38 and 40-42 have not been indicated using the identifier (Canceled). See the Response pages 5 and 6. However, the record clearly shows that the claim 37 was canceled in the Amendment filed on 21st of November 2002, and the claims 38 and 40-42 were canceled in the Preliminary Amendment filed on 31st of March 2000. Thus the

15   Examiner could presume the claims 37, 38 and 40-42 have been canceled even though those claims are not specifically indicated using the identifier (Canceled) in the Response.

Specification

3.   The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

20   *In regarding to claim 44 and its dependent claims 9, 45, 46 and 49,* the limitations in the claims, which are related to the receiver/decoder, are not shown in the disclosure. The disclosure states those limitations are related only to the transmission system.

In regarding to claim 45 and its dependent claims 46 and 49, the limitation "respective different

TID-extensions" in the claims, which is related to the receiver/decoder, is not shown in the disclosure.

The disclosure states the limitation is related only to the transmission system.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5.   Claims 22, 51 and 54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as the

invention.

Regarding to the claim 22, it recites the limitation "the downloaded loader" in line 2. There is

insufficient antecedent basis for this limitation in the claim. Therefore, the term "the downloaded loader"

could be considered as --the loader-- since it is not clearly defined in the claims.

Regarding to the claim 51, a broad range or limitation together with a narrow range or limitation

that falls within the broad range or limitation (in the same claim) is considered indefinite, since the

resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the

explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031,

2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow

language. The Board stated that this can render a claim indefinite by raising a question or doubt as to

whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim,

and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of

Ex parte Steigewald, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex

parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, the claim 51 recites the broad

recitation "transmitting a second loader in said bitstream, to the receiver/decoder", and the claim (actually

in its parent claim 1) also recites "the method of downloading software in native code to a

receiver/decoder, further comprising the steps, at the receiver/decoder" which is the narrower statement of

the range/limitation. In other words, even though the claimed limitation in the preamble of the claim 51

(actually its parent claim 1) sets the claimed invention being performed within the subject matter

"receiver/decoder", the claim 51 enlarges the scope of claimed invention by reciting the limitation

"transmitting a second loader in said bitstream, to the receiver/decoder", which should be performed by

the subject matter "transmitting system" in light of the specification. Thus, the amended claim limitation

"transmitting a second loader in said bitstream, to the receiver/decoder" makes the Claim 51 be rejected

under 35 U.S.C. 112, second paragraph because of enlarging the scope of claimed invention instead of

further limiting the claimed invention.

Regarding to the claim 54, it recites the limitation "the resident software" in line 4. There is

insufficient antecedent basis for this limitation in the claim. Therefore, the term "the resident software"

could be considered as --a resident software-- since it is not clearly defined in the claims.

Claim Rejections - 35 USC § 103

6.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a

prior Office action.

7.   Claims 1, 2, 20, 21, 26, 27, 31, 39 and 43 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Menand et al. [EP 0 680 213 A2; cited by the Applicant; hereinafter Menand'213] in

view of Steinberg et al. [US 6,006,039 A; Steinberg].

Referring to claim 1, Menand'213 discloses a method of downloading software (i.e., receiving

and loading AVI program into a memory; See Abstract) to a receiver/decoder (i.e., AVI receiver/signal

decoder; See Fig. 1 and Abstract), comprising the steps, at the receiver/decoder of: receiving a bitstream

(i.e., packet data stream; See col. 1, line 26-28) including said software (See col. 6, lines 16-18 and 23-

41); downloading into said receiver/decoder a loader (i.e., autostart module; See col. 2, lines 40-43 and

col. 7, lines 42-50) for loading said software from said bitstream using a bootstrap loader (i.e., using a

system loader; See col. 2, lines 36-44 and col. 7, lines 28-42); downloading said software (i.e., AVI

program) into said receiver/decoder from said bitstream using said loader, and storing said software into

said receiver/decoder (See col. 3, line 45 through col. 3, line 2 and col. 7, lines 42-53).

Menand'213 does not expressly teach said loader and said software are in native code (i.e., hardware

5   specific code, which is directly executable by a microprocessor).

Steinberg discloses a method for configuring a camera through external means (Fig. 1), wherein said

method sets a loader and a software (an operating system of a camera) through transmitter and receiver

(external means), i.e., downloading a native code (i.e., an executable code) for redoing a firmware (i.e.,

patching firmware; See col. 1, lines 61-64; i.e., wherein in fact that said method sets an operating system

10   of a camera through an external means, i.e., downloading an executable code for redoing a firmware

clearly anticipates that said loader and said software (i.e., downloaded to said receiver/decoder) are in

native code (i.e., directly executable code by Processor 122 of Fig. 4 as a new operating system)).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have included said method of downloading in native code, as disclosed by Steinberg, in said

15   method at said receiver/decoder, as disclosed by Menand'213, so as to provide the capability of changing

said loader and said software (i.e., camera operating system) and downloading said loader and said

software in native code (i.e., executable code; See Steinberg, col. 2, lines 47-50) with the advantage of

allowing said loader and said software in said bitstream (i.e., application) to execute faster than if each

byte in said bit stream must interpreted and executed at run-time, what was well known in the art, as

20   exemplified by Pedersen [US 5,961,586 A] at col. 11, lines 6-7 and lines 11-13.

Referring to claim 2, Menand'213, as modifies by Steinberg, teaches said loader (i.e., autostart

module; Menand'213) is deleted (i.e., being free; See Menand'213, col. 2, line 56) from said

receiver/decoder after said software (i.e., application in native code; See Menand'213, col. 6, lines 16-18

and 23-41; See Steinberg, col. 1, lines 61-64) has been downloaded from said bitstream (See

Menand'213, col. 2, lines 57-58 and col. 7, lines 51-53).

    Referring to claim 20, Menand'213 discloses a receiver/decoder (i.e., AVI receiver/signal

decoder; See Fig. 1 and Abstract) comprising: a receiver (i.e., receiver; See col. 2, line 36) for receiving a

5   bitstream (i.e., packet data stream; See col. 1, line 26-28) including software (i.e., code module; See col.

6, lines 16-18 and 23-41) and a loader (i.e., autostart module; See col. 2, lines 40-43 and col. 7, lines 42-

50); a storage means (i.e., RAM read/write memory 412 of Fig. 1) configured to stored said software and

said loader (See col. 2, lines 36-52 and col. 6, lines 16-22); and a downloading means (i.e., system loader;

See col. 2, line 37) configured to download said loader into said storage means (i.e., loading autostart

10   module into RAM; See col. 2, lines 40-43 and col. 7, lines 42-50) from said bitstream (See col. 2, line 36

through col. 3, line 2 and col. 7, lines 28-53), wherein said receiver/decoder (i.e., AVI receiver/signal

decoder) is configured to execute said loader (See col. 2, lines 36-48), and wherein said loader is

configured to download said software into said storage means (See col. 2, line 48 through col. 3, line 3).

Menand'213 does not expressly teach said loader and said software are in native code (i.e., hardware

15   specific code, which is directly executable by a microprocessor).

Steinberg discloses a method for configuring a camera through external means (Fig. 1), wherein said

method sets a loader and a software (an operating system of a camera) through transmitter and receiver

(external means), i.e., downloading a native code (i.e., an executable code) for redoing a firmware (i.e.,

patching firmware; See col. 1, lines 61-64; i.e., wherein in fact that said method sets an operating system

20   of a camera through an external means, i.e., downloading an executable code for redoing a firmware

clearly anticipates that said loader and said software (i.e., downloaded to said receiver/decoder) are in

native code (i.e., directly executable code by Processor 122 of Fig. 4 as a new operating system)).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have included said method of downloading in native code, as disclosed by Steinberg, in said

method at said receiver/decoder, as disclosed by Menand'213, so as to provide the capability of changing

said loader and said software (i.e., camera operating system) and downloading said loader and said

software in native code (i.e., executable code; See Steinberg, col. 2, lines 47-50) with the advantage of

allowing said loader and said software in said bitstream (i.e., application) to execute faster than if each

5   byte in said bit stream must interpreted and executed at run-time, what was well known in the art, as

exemplified by Pedersen [US 5,961,586 A] at col. 11, lines 6-7 and lines 11-13.

Referring to claim 21, Menand'213, as modifies by Steinberg, teaches means for deleting (i.e.,

freeing; See Menand'213, col. 2, line 56) said loader (i.e., autostart module; Menand'213) from said

storage means after said software (i.e., application in native code; See Menand'213, col. 6, lines 16-18

10   and 23-41; See Steinberg, col. 1, lines 61-64) has been downloaded from said bitstream (See

Menand'213, col. 2, lines 57-58 and col. 7, lines 51-53).

Referring to claim 26, Menand'213 discloses said receiver/decoder is arranged to download

tables (i.e., directory modules; See col. 2, lines 14-17 and lines 36-40).

Referring to claim 27, Menand'213 discloses said downloading means (i.e., system loader) is

15   arranged to download a table (i.e., a directory module; See col.2, lines 36-40) having a table identification

("TID"; i.e., module identification for directory module) and a predetermined table identification

extension ("TID-extension"; i.e., module identification for code/data module; See directory module 326

and module 328 in Fig. 4) so as to download a directory table (i.e., directory module; See col. 2, lines 14-

17 and lines 36-38 and col. 7, lines 28-38), to determine from the content of said directory table said TID-

20   extensions of module tables (See col. 14, lines 4-10), and to download said module tables (See col. 14,

lines 20-23) having the same TID (i.e., the same directory module identification; See col. 14, lines 41-44)

as that of said downloaded directory table (i.e., directory module) and TID-extensions (e.g., code module

identifier) determined from said downloaded directory table (See directory module 326 and module 328

in Fig. 4) so as to download said loader (e.g., code module). Refer to col. 13, line 9 through col. 15. line

1.

  Referring to claim 31, Menand'213, as modifies by Steinberg, discloses said downloading means

(i.e., system loader; Menand'213) is arranged to download a second loader (i.e., new code module; See

5   Menand'213, col. 7, lines 49-51) included in said software (i.e., application in native code; See

Menand'213, col. 6, lines 16-18 and 23-41; See Steinberg, col. 1, lines 61-64) included in said bitstream

(i.e., packet data stream; Menand'213) for downloading one of said first-mentioned loader (i.e., autostart

module; Menand'213) and said software.

  Referring to claim 39, Menand'213 discloses a signal (i.e., AVI signal; See col. 1, lines 26-28)

10   including at least one loader (i.e., autostart module) for loading a software (i.e., application; See col. 6,

lines 16-18 and 23-41) into a receiver/decoder (i.e., AVI receiver/signal decoder; See Fig. 1 and

Abstract), and said software associated with said at least one loader (See col. 2, lines 43-49), said at least

one loader being divided into a plurality of modules (i.e., a plurality of code modules) and said software

associated with said at least one loader being divided into a respective plurality of modules (i.e., a

15   plurality of associated data modules to said code modules; See col. 1, line 53 through col. 2, line 24).

Menand'213 does not expressly teach said software is in native code (i.e., hardware specific code, which

is directly executable by a microprocessor).

Steinberg discloses a method for configuring a camera through external means (Fig. 1), wherein said

method sets a software (an operating system of a camera) through transmitter and receiver (external

20   means), i.e., downloading a native code (i.e., an executable code) for redoing a firmware (i.e., patching

firmware; See col. 1, lines 61-64; i.e., wherein in fact that said method sets an operating system of a

camera through an external means, i.e., downloading an executable code for redoing a firmware clearly

anticipates that said software (i.e., downloaded to said receiver/decoder) is in native code (i.e., directly

executable code by Processor 122 of Fig. 4 as a new operating system)).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied said method of downloading in native code, as disclosed by Steinberg, to said receiver/decoder system, as disclosed by Menand'213, so as to provide the capability of changing said software (i.e., camera operating system) and downloading said software in native code (i.e., executable

5   code; See Steinberg, col. 2, lines 47-50) with the advantage of allowing said software in said bitstream (i.e., application) to execute faster than if each byte in said bit stream must interpreted and executed at run-time, which is well know to one of ordinary skill in the art at the time the invention was made, what was well known in the art, as exemplified by Pedersen [US 5,961,586 A] at col. 11, lines 6-7 and lines 11-13.

10   *Referring to claim 43,* Menand'213 teaches said bitstream includes at least one loader (i.e., autostart module), said method comprises dividing said at least one data loader into a plurality of modules (i.e., a plurality of code modules); and dividing said software into a respective plurality of modules, each plurality of said software modules being associated with a respective plurality of loader modules (i.e., a plurality of associated data modules to said code modules; See col. 1, line 53 through col. 2, line 24).

15   8.   Claims 3, 4, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menand'213 [EP 0 680 213 A2] in view of Steinberg [US 6,006,039 A] as applied to claims 1, 2, 20, 21, 26, 27, 31, 39 and 43 above, and further in view of Bowen et al. [US 5,367,571 A; hereinafter Bowen].

      Referring to claims 3 and 4, Menand'213, as modified by Steinberg, discloses all the limitations of claim 3 except that does not teach said loader is subsequently stored in non-volatile memory, which is

20   a Flash memory volume, of said receiver/decoder.

Bowen discloses a subscriber terminal, wherein a loader (i.e., a control program) is subsequently stored in a non-volatile memory (i.e., FLASH EPROM 134 of Fig. 7), which is a Flash memory volume (See col. 7, lines 54-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have substituted said non-volatile Flash memory volume, as disclosed by Bowen, for said means

for storing (i.e., RAM read/write memory), as disclosed by Menand'213, as modified by Steinberg, for

the advantage of saving a lot of time being spent re-downloading data since it is not necessary for said

5   receiver/decoder to download again said data after said receiver/decoder is off and on thanks to said non-

volatile Flash volume, which keeps said data under said non-volatile condition, which is a common sense

to one of ordinary skill in the art at the time the invention was made.

Thus, Menand'213, as modified by Steinberg and Bowen, suggests said non-volatile Flash memory

volume (i.e., FLASH EPROM 134 of Fig. 7; Bowen) stores said downloaded data loader after said

10   software (i.e., application in native code; See Menand'213, col. 6, lines 16-18 and 23-41; See Steinberg,

col. 1, lines 61-64) has been downloaded from said bitstream.

    Referring to claims 22 and 23, Menand'213, as modified by Steinberg, discloses all the limitation

of claim 22 except that does not teach said receiver/decoder further comprising a non-volatile memory,

which is a Flash memory volume.

15   Bowen discloses a subscriber terminal, wherein a non-volatile memory (i.e., FLASH EPROM 134 of Fig.

7), which is a Flash memory volume (See col. 7, lines 54-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have substituted said non-volatile Flash memory volume, as disclosed by Bowen, for said storage

means (i.e., RAM read/write memory), as disclosed by Menand'213, as modified by Steinberg, for the

20   advantage of saving a lot of time being spent re-downloading data since it is not necessary for said

receiver/decoder to download again said data after said receiver/decoder is off and on thanks to said non-

volatile Flash volume, which keeps said data under said non-volatile condition, which is a common sense

to one of ordinary skill in the art at the time the invention was made.

Menand'213, as modified by Steinberg and Bowen, discloses said non-volatile Flash memory volume

(i.e., FLASH EPROM 134 of Fig. 7; Bowen) stores said downloaded data loader after said software (i.e.,

application in native code; See Menand'213, col. 6, lines 16-18 and 23-41; See Steinberg, col. 1, lines 61-

64) has been downloaded from said bitstream.

5   9.   Claims 6 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menand'213 [EP

0 680 213 A2] in view of Steinberg [US 6,006,039 A] as applied to claims 1, 2, 20, 21, 26, 27, 31, 39 and

43 above, and further in view of Bestler et al. [US 5,608,732 A; hereinafter Bestler].

    Referring to claim 6, Menand'213, as modified by Steinberg, discloses all the limitations of claim

6 except that does not teach a portion only of said software stored in said receiver/decoder is replaced by

10   a corresponding portion of said software downloaded by said loader.

Bestler discloses an television distribution system, wherein

a portion only of a software (i.e., data) stored (See col. 13, lines 14-16; wherein in fact that a series of

packets which are to be processed to download a particular record set implies said downloaded loader

(i.e., download executive) replaces (i.e., download for updating) a portion only (i.e., particular record set)

15   of a software (i.e., data) stored (i.e., record set)) in a receiver/decoder (i.e., Cable system 10 comprising

headend 11 and decoder 12 in Fig. 1) is replaced (i.e., updated) by a corresponding portion of said

software (i.e., data) downloaded (See col. 13, lines 32-35) by a loader (i.e., download executive 23 of Fig.

1; See col. 13, lines 14-39).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

20   made to have included said data updating feature, as disclosed by Bestler, in said method of downloading

software, as disclosed by Menand'213, as modified by Steinberg, for the advantage of saving a lot of time

being spent downloading data since said data updating feature supports downloading a necessary portion

of data instead of a full set of data, which is a common sense to one of ordinary skill in the art at the time

the invention was made.

Referring to claim 25, Menand'213, as modified by Steinberg, discloses all the limitations of

claim 25 except that does not teach said downloaded loader is adapted to replace a portion only of said

software stored in said receiver/decoder by a corresponding portion of said software downloaded thereby.

Bestler discloses an television distribution system, wherein a loader (i.e., download executive 23 of Fig.

5   1) is adapted to replace (i.e., update) a portion only of an software (i.e., data) stored (See col. 13, lines 14-

16; wherein in fact that a series of packets which are to be processed to download a particular record set

implies said downloaded loader (i.e., download executive) replaces (i.e., download for updating) a portion

only (i.e., particular record set) of a software (i.e., data) stored (i.e., record set)) in a receiver/decoder (i.e.,

Cable system 10 comprising headend 11 and decoder 12 in Fig. 1) by a corresponding portion of said

10   software (i.e., data) downloaded (See col. 13, lines 32-35) thereby (See col. 13, lines 14-39).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have included said data updating feature, as disclosed by Bestler, in said downloaded data loader,

as disclosed by Menand'213, as modified by Steinberg, for the advantage of saving a lot of time being

spent downloading data since said data updating feature supports downloading a necessary portion of data

15   instead of a full set of data, which is a common sense to one of ordinary skill in the art at the time the

invention was made.

10.   Claims 9, 28, 44-47 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Menand'213 [EP 0 680 213 A2] in view of Steinberg [US 6,006,039 A] as applied to claims 1, 2, 20, 21,

26, 27, 31, 39 and 43 above, and further in view of Menand et al. [EP 0 680 216 A2; hereinafter

20   Menand'216].

Referring to claim 28, Menand'213, as modified by Steinberg, discloses all the limitations of

claim 28 including said downloading means (i.e., system loader; Menand'213) is arranged to download a

directory table (i.e., a directory module; See Menand'213, col.2, lines 36-40) except that does not teach

said downloaded directory table having a predetermined TID and containing, for each of a plurality of

version identifications of a receiver/decoder, a respective TID associated with that version identification.

Menand'216 discloses a method for formulating an interactive TV signal, wherein a directory table (i.e.,

directory module; See TABLE II in Fig. 6) having a predetermined TID (i.e., application identifier; AID

5   in Fig. 6) and containing, for each of a plurality of version identifications (i.e., module version numbers in

Fig. 6) of a receiver/decoder (i.e., interactive TV system in Fig. 1), a respective TID (i.e., application

identifier) associated with that version identification (See Fig. 6 and page 5, lines 53-58), to determine

said version identification of said receiver/decoder (See page 5, lines 39-40), and to download a directory

table (i.e., directory module) having a TID associated with a version number of said receiver/decoder (See

10   page 5, lines 40-41) and a predetermined TID-extension (i.e., module identifier; See TABLE II in Fig. 6

and page 5, lines 41-42).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have included said predetermined TID and said version identifications in said directory table, as

disclosed by Menand'216, in said directory table, as disclosed by Menand'213, as modified by Steinberg,

15   so as to update said downloaded modules responsive to detecting a change in said data version

identification (i.e., module version number; See page 5, lines 39-41 in Menand'216).

        Referring to claim 44, Menand'213, as modified by Steinberg, discloses all the limitations of

claim 44 except that does not teach formatting said plurality of data loader modules as respective tables,

said tables having the same respective table identification ("TID") and respective different table

20   identification extensions ("TID-extnsions"); and formatting said plurality of said software modules as a

respective table, said tables having the same respective TID as said tables of said loader modules

associated therewith and respective different TID-extensions.

Menand'216 discloses a transmission system (i.e., interactive TV system in Fig. 1), wherein formatting a

plurality of data loader modules as respective tables (i.e., directory module; See TABLE II in Fig. 6 and

page 5, lines 51-54), said tables having the same respective table identification ("TID"; Application

Identifier AID; See Fig. 6 and page 5, lines 54-55) and respective different table identification extensions

("TID-extension"; i.e., module identification for code/data module; See Module Identifier in Figs. 5 and

6); and formatting a plurality of software modules (See page 3, lines 32-35) as a respective table (See

5   TABLE II "respective table for each module" in Fig. 6), said tables having the same respective TID as

said tables of said loader modules associated therewith (See page 5, lines 56-57) and respective different

TID-extensions (i.e., module identification for code/data module).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have included said means for formatting said data loader modules, and said means for formatting

10   said software modules, as disclosed by Menand'216, in said method at said receiver/decoder, as disclosed

by Menand'213, as modified by Steinberg, for the advantage of making a system (e.g., interactive TV)

less costly by way of keeping memory in said receiver/decoder to a minimum thanks to said steps of

formatting (See Menand'216, page 3, lines 6-8).

        Referring to claim 9, Menand'213 teaches downloading module tables (See col. 14, lines 20-23)

15   having the same TID (i.e., the same directory module identification; See col. 14, lines 41-44).

        Referring to claim 45, Menand'213, as modified by Steinberg and Menand'216, discloses said

tables have respective different TID-extensions (i.e., service component identifications for respective

transport packets in the transmission unit header; See Menand'216, page 3, lines 19-35 and page 7, lines

1-4) other than a predetermined TID-extension (i.e., module identification for code/data module; See

20   Menand'216, Module Identifier in Fig. 5 and Fig. 6), and further comprising generating a respective

directory table (i.e., directory module; Menand'216) for said plurality of modules having the same TID

(i.e., the same directory module identification; See Menand'213, col. 14, lines 41-44), said directory table

having said predetermined TID-extension (i.e., module identification for code/data module; Menand'216)

and the same TID (i.e., AID; See Menand'216, Fig. 6), said directory table (i.e., directory module;

Menand'216) containing for said plurality of modules a name of a module (i.e., string table for module

names; Menand'216) and a respective TID-extension (i.e., module identifier; See Menand'216, Fig. 6 and

page 5, lines 53-58).

    Referring to claim 46, Menand'213 discloses downloading (i.e., by system loader) one of said

5   tables (i.e., a directory module; See col.2, lines 36-40) having said predetermined TID-extension ("TID-

extension"; i.e., module identification for code/data module; See directory module 326 and module 328 in

Fig. 4) so as to download a directory table (i.e., directory module; See col. 2, lines 14-17 and lines 36-38

and col. 7, lines 28-38); determining from the content of said directory table said TID-extensions of

module tables (See col. 14, lines 4-10) having the same TID (i.e., the same directory module

10   identification; See col. 14, lines 41-44) as said directory table (i.e., directory module) and TID-extensions

(e.g., code module identifier) determined from said downloaded directory table (See directory module 326

and module 328 in Fig. 4). Refer to col. 13, line 9 through col. 15. line 1.

    Referring to claim 47, Menand'213, as modified by Steinberg, discloses all the limitations of

claim 47 except that does not teach generating a directory table having a predetermined table

15   identification ("TID") and containing, for a plurality of version identifications of a receiver/decoder, a

respective TID associated with that version identification.

Menand'216 discloses a method for formulating an interactive TV signal, wherein generating a directory

table (i.e., directory module; See TABLE II in Fig. 6) having a predetermined table identification ("TID";

application identifier; AID in Fig. 6) and containing, for a plurality of version identifications (i.e., module

20   version numbers in Fig. 6) of a receiver/decoder (i.e., interactive TV system in Fig. 1), a respective TID

(i.e., application identifier) associated with that version identification (See Fig. 6 and page 5, lines 53-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have included said predetermined TID and said version identifications in said directory table, as

disclosed by Menand'216, in said directory table, as disclosed by Menand'213, as modified by Steinberg,

so as to update said downloaded modules responsive to detecting a change in said data version

identification (i.e., module version number; See page 5, lines 39-41 in Menand'216).

> *Referring to claim 50,* Menand'213, as modified by Steinberg, discloses all the limitations of

claim 50 except that does not teach a software version identification of said software in said bitstream.

5   Menand'216 discloses a method for formulating an interactive TV signal, wherein a formulated bitstream

(i.e., packet stream) includes a data version identification (i.e., module version number; See Fig. 5 and 6)

of a data (i.e., module).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have included said data version identification, as disclosed by Menand'216, in said bitstream of

10   said data, as disclosed by Menand'213, as modified by Steinberg, so as to update a downloaded executing

application responsive to detecting a change in said data version identification (i.e., module version

number; See Menand'216, page 5, lines 39-41).

Thus, Menand'213, as modified by Steinberg and Menand'216, discloses determining, at said

receiver/decoder, whether said software version identification of received software is more recent than

15   said software version identification of currently stored software (See Menand'216, page 5, lines 39-40);

and downloading said received software from said bitstream data if said received software is more recent

(See Menand'216, page 5, lines 40-41).

11.   Claims 13 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menand'213

[EP 0 680 213 A2] in view of Steinberg [US 6,006,039 A] and Menand'216 [EP 0 680 216 A2] as applied

20   to claims 9, 28, 44-47 and 50 above, further in view of Hearing [US 5,787,017 A].

> *Referring to claim 13,* Menand'213, as modified by Steinberg and Menand'216, discloses all the

limitations of claim 13 except that does not teach said version identification comprises a code for the

version of said receiver/decoder and a code for the manufacturer of said receiver/decoder.

Hearing discloses a data acquisition apparatus, wherein it displays an version identification (i.e.,

identification message) comprises a code for the version of said receiver/decoder (i.e., version number of

said apparatus) and a code for the manufacturer of said receiver/decoder (i.e., name of manufacturer).

Refer to col. 4, lines 60-63.

5   Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have included said identification message, as disclosed by Hearing, in said version identification,

as disclosed by Menand'213, as modified by Steinberg and Menand'216, so as to provide an abundant

information on said version identification for a better version control, which is a well-known in the art of

production version control.

10   *Referring to claim 48,* Menand'213, as modified by Steinberg, Menand'216 and Hearing, teaches

downloading said directory table (i.e., a directory module; See Menand'213, col.2, lines 36-40), and said

directory table (i.e., directory module; See Menand'216, TABLE II in Fig. 6) having a predetermined TID

(i.e., application identifier; AID in Fig. 6; Menand'216); and Menand'216 further teaches determining

said version identification of said receiver/decoder (See page 5, lines 39-40), wherein downloading a

15   directory table (i.e., directory module) comprises downloading that one of said tables (i.e., directory

module) having a TID associated with a version number of said receiver/decoder (See page 5, lines 40-

41) and a predetermined TID-extension (i.e., module identifier; See TABLE II in Fig. 6 and page 5, lines

41-42).

12.   Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Menand'213 [EP 0 680

20   213 A2] in view of Steinberg [US 6,006,039 A] as applied to claims 1, 2, 20, 21, 26, 27, 31, 39 and 43

above, and further in view of Metz et al. [US 5,666,293; cited by the Applicant; hereinafter Metz].

        Referring to claim 29, Menand'213, as modified by Steinberg, discloses all the limitations of

claim 29 except that does not teach a directory version identification.

Metz discloses a downloading means (i.e., means for downloading operating system software; See

Abstract) is arranged to determine whether a directory version identification (i.e., operating system

version number) of a currently transmitted directory table (i.e., operating system broadcast on the

network; See col. 9, line 61) is more recent than (i.e., differs from; See col. 9, line 66) said directory

5   version identification of a previously downloaded directory table (i.e., currently running operating

system; See col. 9, lines 62-63) having the same TID (i.e., the particular type set-top terminal; See col. 9,

lines 56-58) as said currently transmitted directory table (See col. 9, line 65 through col. 10, line 1), and if

not (i.e., the same as; See col. 9, lines 61-62), to abort said downloading of said loader (i.e., operating

system; See col. 9, lines 60-64).

10   Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have included said version control, as disclosed by Metz, in said directory/code module

upgrading, as disclosed by Menand'213, as modified by Steinberg, for the advantage of obviating an

unnecessary upgrading said modules so as to use said receiver/decoder downloading bandwidth

effectively, which is well known to one of ordinary skill in the art of computer at the time the invention

15   was made.

13.   Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Menand'213 [EP 0 680

213 A2] in view of Steinberg [US 6,006,039 A] and Menand'216 [EP 0 680 216 A2] as applied to claims

9, 28, 44-46 and 50 above, and further in view of Metz [US 5,666,293].

        Referring to claim 49, Menand'213, as modified by Steinberg and Menand'216, discloses all the

20   limitations of claim 49 except that does not teach a directory version identification.

Metz discloses a downloading means (i.e., means for downloading operating system software; See

Abstract) is arranged to determine whether a directory version identification (i.e., operating system

version number) of a currently transmitted directory table (i.e., operating system broadcast on the

network; See col. 9, line 61) is more recent than (i.e., differs from; See col. 9, line 66) said directory

version identification of a previously downloaded directory table (i.e., currently running operating

system; See col. 9, lines 62-63) having the same TID (i.e., the particular type set-top terminal; See col. 9,

lines 56-58) as said currently transmitted directory table (See col. 9, line 65 through col. 10, line 1), and if

not (i.e., the same as; See col. 9, lines 61-62), to abort said downloading of said loader (i.e., operating

5   system; See col. 9, lines 60-64).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have included said version control, as disclosed by Metz, in said directory/code module

upgrading, as disclosed by Menand'213, as modified by Steinberg and Menand'216, for the advantage of

obviating an unnecessary upgrading said modules so as to use said receiver/decoder downloading

10   bandwidth effectively, which is well known to one of ordinary skill in the art of computer at the time the

invention was made.

14.   Claim 34-36, 52 and 53 rejected under 35 U.S.C. 103(a) as being unpatentable over Menand'216

[EP 0 680 216 A2] in view of Menand'213 [EP 0 680 213 A2] and Steinberg [US 6,006,039 A].

Referring to claim 52, Menand'216 discloses a transmission system (i.e., interactive TV system in

15   Fig. 1) comprising: means for transmitting (See page 4, lines 16-17) a bit stream (i.e., signal stream; See

Fig. 8,9 and page 4, line 24) including at least one loader (i.e., interactive application; See page 3, lines

18-19); and means for dividing (See page 3, lines 19-22) said at least one loader (i.e., interactive

application) into a plurality of modules (i.e., modules; See page 3, lines 33-34) and dividing said software

(i.e., interactive component data; See page 3, line 35) associated with said at least one loader into a

20   respective plurality of modules (i.e., application data module; See page 3, line 33) for transmittal by said

transmitting means (e.g., satellite transponder; See page 4, lines 16-17).

Menand'216 does not disclose said at least one loader for loading an application into a receiver/decoder.

Menand'213 discloses a loader (i.e., autostart module; See col. 2, lines 40-43 and col. 7, lines 42-50) for

loading an application (See col. 6, lines 16-18 and 23-41) into a receiver/decoder (See col. 2, line 36

through col. 3, line 2 and col. 7, lines 28-53), and said software associated with said at least one loader

(i.e., a plurality of associated data modules to said code modules; See col. 1, line 53 through col. 2, line

24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

5   made to have included said loader, as disclosed by Menand'213, in said interactive application, as

disclosed by Menand'216, so as to load an associated application from said bitstream into said

receiver/decoder (See Menand'213, col. 7, lines 46-51).

Menand'216, as modified by Menand'213, does not expressly teach said software is in native code (i.e.,

hardware specific code, which is directly executable by a microprocessor).

10   Steinberg discloses a method for configuring a camera through external means (Fig. 1), wherein said

method sets a software (an operating system of a camera) through transmitter and receiver (external

means), i.e., downloading a native code (i.e., an executable code) for redoing a firmware (i.e., patching

firmware; See col. 1, lines 61-64; i.e., wherein in fact that said method sets an operating system of a

camera through an external means, i.e., downloading an executable code for redoing a firmware clearly

15   anticipates that said software (i.e., downloaded to said receiver/decoder) is in native code (i.e., directly

executable code by Processor 122 of Fig. 4 as a new operating system)).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to have applied said method of downloading in native code, as disclosed by Steinberg, to said

receiver/decoder system, as disclosed by Menand'216, as modified by Menand'213, so as to provide the

20   capability of changing said software (i.e., camera operating system) and downloading said software in

native code (i.e., executable code; See Steinberg, col. 2, lines 47-50) with the advantage of allowing said

software in said bitstream (i.e., application) to execute faster than if each byte in said bit stream must

interpreted and executed at run-time, what was well known in the art, as exemplified by Pedersen [US

5,961,586 A] at col. 11, lines 6-7 and lines 11-13.

　　　　Referring to claim 53, Menand'216 discloses means for formatting each of said modules of said

at least one loader as a respective table (i.e., directory module; See TABLE II in Fig. 6 and page 5, lines

51-54), said table of said at least one loader having the same respective table identification ("TID";

Application Identifier AID; See Fig. 6 and page 5, lines 54-55) and respective different table

5　　identification extension ("TID-extension"; i.e., module identification for code/data module; See Module

Identifier in Fig. 5,6);and means for formatting each of said modules of said software associated with said

at least one loader (See page 3, lines 32-35) as a respective table (See TABLE II "respective table for

each module" in Fig. 6), said tables of said loader modules associated therewith (See page 5, lines 56-57)

and respective different TID-extensions (i.e., module identification for code/data module).

10　　　　　*Referring to claim 34,* Menand'216, as modified by Menand'213 and Steinberg, discloses said

tables have respective different TID-extensions (i.e., service component identifications for respective

transport packets in the transmission unit header; See Menand'216, page 3, lines 19-35 and page 7, lines

1-4) other than a predetermined TID-extension (i.e., module identification for code/data module; See

Menand'216, Module Identifier in Fig. 5 and Fig. 6); said system further comprising a respective

15　　directory tables (i.e., directory module; Menand'216) for said plurality of modules having the same TID

(i.e., the same directory module identification; See Menand'213, col. 14, lines 41-44), each directory table

having that TID (i.e., AID; See Menand'216, Fig. 6) and said predetermined TID-extension (i.e., module

identification for code/data module; Menand'216), said directory table (i.e., directory module;

Menand'216) containing for each of said modules a name of that module (i.e., string table for module

20　　names; Menand'216) and the respective TID-extension (i.e., module identifier; See Menand'216, Fig. 6

and page 5, lines 53-58).

　　　　Referring to claim 35, Menand'216 discloses means for generating a directory table (i.e.,

directory module; See page 5, lines 51-58) having a predetermined table identification ("TID";

Application Identifier AID; See Fig. 6 and page 5, lines 54-55) and containing, for each of a plurality of

version identifications (i.e., module version numbers in Fig. 6) of a receiver/decoder (i.e., interactive TV

system in Fig. 1), a respective TID (i.e., application identifier) associated with that version identification

(See Fig. 6 and page 5, lines 53-58).

      Referring to claim 36, Menand'216 discloses means for including in each transmitted table (i.e.,

5   module) a version identification (i.e., module version number; See Fig. 5,6; therefore (See page 5, lines

39-40). ·

Claim Rejections - 35 USC § 102

15.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

for the rejections under this section made in this Office action:

10   A person shall be entitled to a patent unless –

          (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
          in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
          patent by another filed in the United States before the invention by the applicant for patent, except that an
          international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
15   subsection of an application filed in the United States only if the international application designated the United
          States and was published under Article 21(2) of such treaty in the English language.

16.   Claim 54 and 55 are rejected under 35 U.S.C. 102(e) as being anticipated by Morimoto et al. [US

6,067,500 A; hereinafter Morimoto].

20   *Referring to claim 54,* Morimoto discloses a method for updating resident software (i.e.,

upgrading a program; See Abstract) to a receiver/decoder (i.e., central processing unit in Fig. 3),

comprising: downloading an updated resident software (i.e., program loading from CD) using a resident

loader (i.e., program loading means) into said receiver/decoder (i.e., central processing unit; See 7, lines

61-67); updating (i.e., version upgrading) a resident software (i.e., the function for drawing images) in

25   said receiver/decoder, wherein updating said resident software comprises replacing resident software with

said updated resident software (See col. 8, lines 3-14); and deleting said resident loader from said

receiver/decoder (See col. 8, lines 14-20).

      Referring to claim 55, Morimoto discloses a receiver/decoder (i.e., navigation system),

comprising: resident software (i.e., program of the function for drawing images) executing on said

receiver/decoder (See Abstract), a bootstrap loader (See col. 7, lines 61-65; i.e., the necessary program required for CD loading), configured to download a loader (i.e., a part of the loader program assigned thereto as a program loading means located in CD) from a bit stream (i.e., CD data stream; See col. 7, lines 65-67 and col. 8, lines 16-18); and a memory (i.e., flash memory 41, ROM and RAM 43 in Fig. 3)

5   configured to store said loader and said resident software (See Abstract), wherein said loader is configured to download an updated version (i.e., version upgrading) of said resident software (i.e., the function for drawing images), and wherein said receiver/decoder is configured to updated said resident software using said updated version of said resident software (See col. 8, lines 3-14); wherein said receiver/decoder is configured to delete said loader once said resident software is updated (See col. 8,

10   lines 14-20).

Response to Arguments

17.   Applicant's arguments filed on 13th of April 2004 have been fully considered but they are not persuasive.

In response to the Applicant's argument with respect to "In the Response to Argument section of

15   the Action mailed November 11, 2003, the Examiner asserted that the autostart module is equivalent to the loader. The Applicant respectfully disagrees. ... However, there is no support for the Examiner's assertion that the code module, or more specifically, the autostart module includes functionality to act as a system loader." on the Response page 12, lines 3-11, it had been addressed/discussed in the Office Action mailed on 13th of November 2003 (hereinafter the prior Office Action) , and the Examiner still

20   respectfully disagrees.

The Examiner properly responded that Menand'213 suggests the subject matter "downloading a loader for loading software", i.e., downloading means (i.e., system loader; See col. 2, line 37) for downloading into said storage means (i.e., RAM read/write memory 412 of Fig. 1) a loader (i.e., autostart module; See col. 2, lines 40-43 and col. 7, lines 42-50) for loading said software from said bitstream (See col. 2, line

36 through col. 3, line 2 and col. 7, lines 28-53). And also, Menand'213 teaches that "system loader" loads "autostart module" into the memory RAM, and the loaded "autostart module" loads other code and data module (See col. 2, lines 43-52). However, in contrary to the Applicant's statement, the Examiner had never asserted that the code module, or more specifically, the autostart module includes functionality

5 to act as a system loader in the prior Office Action. Moreover, the Applicant fails to bring the evidence of the allegation, i.e., the Examiner's assertion in the prior Office Action. Thus, the Applicant's argument on this point is not persuasive.

In response to the Applicant's argument with respect to "Claims 3, 4, 22 and 23 stand rejected under 35 U.S.C. § 103(a) as being obvious over Menand'213 in view of Steinberg and further in view of

10 U.S. Patent No. 5,367,571 ("Bowen"). ... Furthermore, Bowen is completely silent to a downloading a loader, ..." on the Response page 13, lines 1-10, the Examiner believes that the Applicant misinterprets the claim rejection.

The Applicant essentially argues that Bowen doesn't teach the above argued elements. However, Menand'213 teaches downloading into said receiver/decoder a loader (i.e., autostart module; See col. 2,

15 lines 40-43 and col. 7, lines 42-50), in turn, downloading software (i.e., receiving and loading AVI program into a memory; See Abstract) to a receiver/decoder (i.e., AVI receiver/signal decoder; See Fig. 1 and Abstract). See the paragraph 8 of the instant Office Action, claims 3, 4, 22 and 23 rejection under 35 U.S.C. 103(a) as being unpatentable over Menand'213 in view of Steinberg and Bowen. Thus, the Applicant's argument on this point is not persuasive.

20 *In response to the Applicant's argument with respect to* "Claims 6 and 25 stand rejected under 35 U.S.C. § 103(a) as being obvious over Menand'213 in view of Steinberg and further in view of U.S. Patent No. 5,608,732 ("Bestler"). ... , however, Bestler is completely silent to a downloading a loader as recited in claims 1, 20 and 39. ..." on the Response page 13, lines 11-20, the Examiner believes that the Applicant misinterprets the claim rejection.

The Applicant essentially argues that Bestler doesn't teach the above argued elements. However,

Menand'213 teaches downloading into said receiver/decoder a loader (i.e., autostart module; See col. 2,

lines 40-43 and col. 7, lines 42-50). See the paragraph 9 of the instant Office Action, claims 6 and 25

rejection under 35 U.S.C. 103(a) as being unpatentable over Menand in view of Steinberg and Bestler.

5   Thus, the Applicant's argument on this point is not persuasive.

In response to the Applicant's argument with respect to "Claims 29 and 49 stand rejected under

35 U.S.C. § 103(a) as being obvious over Menand'213 in view of Steinberg and further in view of U.S.

Patent No. 5,666,293 ("Metz"). ... , but is completely silent to a downloading a loader as required in

claims 1, 20 and 39. ..." on the Response page 13, line 21 through page 14, line 6, the Examiner believes

10   that the Applicant misinterprets the claim rejection.

The Applicant essentially argues that Metz doesn't teach the above argued elements. However,

Menand'213 teaches downloading into said receiver/decoder a loader (i.e., autostart module; See col. 2,

lines 40-43 and col. 7, lines 42-50). See the paragraphs 12 and 13 of the instant Office Action, claim 29

rejection under 35 U.S.C. 103(a) as being unpatentable over Menand'213 in view of Steinberg and Metz,

15   and claim 49 rejection under 35 U.S.C. 103(a) as being unpatentable over Menand'213 in view of

Steinberg, Menand'216 and Metz. Thus, the Applicant's argument on this point is not persuasive.

In response to the Applicant's argument with respect to "Claims 28, 47, 48 and 50 stand rejected

under 35 U.S.C. § 103(a) as being obvious over Menand'213 in view of Steinberg and further in view of

European Patent No. EP 0 680 213 A2 ("Menand '216"). ... , There is no disclosure or suggestion of

20   downloading a loader as required by claims 1, 20, 39 and 50. ..." on the Response page 14, lines 7-16, the

Examiner believes that the Applicant misinterprets the claim rejection.

The Applicant essentially argues that Menand'216 doesn't teach the above argued elements. However,

Menand'213 teaches downloading into said receiver/decoder a loader (i.e., autostart module; See col. 2,

lines 40-43 and col. 7, lines 42-50). See the paragraphs 10 and 11 of the instant Office Action, claims 9,

28, 44-47 and 50 rejection under 35 U.S.C. 103(a) as being unpatentable over Menand'213 in view of

Steinberg and Menand'216, and claims 13 and 48 rejection under 35 U.S.C. 103(a) as being unpatentable

over Menand'213 in view of Steinberg, Menand'216 and Hearing. Thus, the Applicant's argument on this

point is not persuasive.

5   *In response to the Applicant's argument with respect to* "Claim 13 stands rejected under 35

U.S.C. § 103(a) as being obvious over Menand'213 in view of Steinberg and Menand'216, and further in

view of U.S. Patent No. 5,787,017 ("Hearing"). ... , Hearing teaches a data acquisition apparatus and is

completely silent to downloading a loader as required by claim 1. ..." on the Response page 14, lines 17-

23, the Examiner believes that the Applicant misinterprets the claim rejection.

10   The Applicant essentially argues that Hearing doesn't teach the above argued elements. However,

Menand'213 teaches downloading into said receiver/decoder a loader (i.e., autostart module; See col. 2,

lines 40-43 and col. 7, lines 42-50). See the paragraph 11 of the instant Office Action, claims 13 and 48

rejection under 35 U.S.C. 103(a) as being unpatentable over Menand'213 in view of Steinberg,

Menand'216 and Hearing. Thus, the Applicant's argument on this point is not persuasive.

15   *In response to the Applicant's argument with respect to* "Claims 34, 35, 36, 44, 45, 52 and 53

were rejected under 35 U.S.C. § 103(a) as being unpatentable over Menand'216 in view of Menand'213

and Steinberg. As mentioned, Menand'216 teaches a method for formulating an interactive TV signal, but

is completely silent to downloading a loader in native code, which in turn downloads software in native

code. Again, Menand'213 and Steinberg fail to provide this feature. ..." on the Response page 14, lines 7-

20   16, the Examiner respectfully disagrees.

In contrary to the Applicant's statement, the combination of Menand'213 and Steinberg suggests the

above argued elements including downloading into said receiver/decoder a loader (i.e., autostart module;

See Menand'213, col. 2, lines 40-43 and col. 7, lines 42-50). See the paragraph 7 of the instant Office

Action, claims 1, 2, 20, 21, 26, 27, 31, 39 and 43 rejection under 35 U.S.C. 103(a) as being unpatentable

over Menand'213 in view of Steinberg. Moreover, the Applicant's argument fails to comply with 37

CFR 1.111(b) because it amounts to a general allegation that the claims define a patentable invention (i.e.,

Menand'213 and Steinberg fail to provide the above argued feature) without specifically pointing out how

the language of the claims patentably distinguishes them from the references Menand'213 and Steinberg.

5   Thus, the Applicant's argument on this point is not persuasive.

Conclusion

18.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

       Rowley [US 5,999,740 A] discloses updating mechanism for software.

       Averbuch et al. [US 5,689,825 A] disclose method and apparatus for downloading updated

10   software to portable wireless communication units.

       Page et al. [US 4,430,704] disclose programmable bootstrap loading system.

       Matsushita [JP 408305561 A] discloses method and device for down-loading firmware.

19.   The Examiner considers Matsushita [JP 408305561 A] reference as a pertinent to the applicant's

       disclosure in the instant Office Action, and it is referred to the original copy of foreign reference in

15   foreign language (i.e., Japanese). The Examiner attaches a machine translated copy of the reference for

       the convenience of the Applicant. However, the Examiner cautions the Applicant that the Office is not

       responsible for any erroneous interpretation resulting from inaccuracies between the original foreign

       language reference and the machine translation of the reference, as the machine translation may not

       reflect the original precisely.

20   Any inquiry concerning this communication or earlier communications from the examiner should

       be directed to Christopher E. Lee whose telephone number is 703-305-5950. The examiner can normally

       be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark

H. Rinehart can be reached on 703-305-4815. The fax phone number for the organization where this

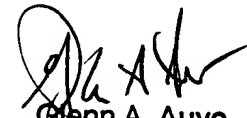application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application

5   Information Retrieval (PAIR) system. Status information for published applications may be obtained

from either Private PAIR or Public PAIR. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

10

Christopher E. Lee
Examiner
Art Unit 2112

cel/ *CEL*

Glenn A. Auve
Primary Patent Examiner
Technology Center 2100